

Senate Amendment to
House File 2340

H-8350

1 Amend House File 2340, as passed by the House, as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. NEW SECTION. 123.56 Public safety nuisances
5 — procedure.

6 1. A public safety nuisance exists at a licensed premises
7 for purposes of this section when it is established by clear
8 and convincing evidence that an owner, manager, employee,
9 contemporaneous patron, or guest of the licensed premises
10 commits any of the following acts on the licensed premises or
11 in any parking lots or areas, including but not limited to
12 public rights of way, adjacent to the licensed premises:

13 a. Unlawfully discharges a firearm or uses an offensive
14 weapon, as defined in section 724.1, regardless of whether it
15 inflicts injury or death.

16 b. Assaults another person with a dangerous weapon as
17 defined in section 702.7 resulting in injury or death.

18 c. Engages in a riot as defined in section 723.1 on at
19 least three separate days within any twelve-month period in
20 which a peace officer responded for purposes of dispersing the
21 participants in the riot. A person who willingly joins in or
22 remains a part of a riot need not be the same person for each
23 riot incident.

24 2. If the county attorney or city attorney where the
25 licensed premises is located has reason to believe a public
26 safety nuisance that constitutes a serious threat to the
27 public safety exists, the county attorney or city attorney, or
28 attorney acting at the direction of the county attorney or city
29 attorney, may file a suit in equity in district court without
30 bond seeking abatement of a public safety nuisance arising
31 from a premises licensed under this chapter pursuant to the
32 requirements of this section.

33 3. Upon filing a suit in equity in district court pursuant
34 to subsection 2, the county attorney or city attorney shall
35 notify the administrator of the action. Upon receiving notice,

1 the administrator shall issue an order reducing the hours
2 during which alcoholic beverages may be sold or consumed at
3 retail on the licensed premises to between 6:00 a.m. and 10:00
4 p.m. each day of the week during the pendency of the action in
5 equity. The county attorney or city attorney shall notify the
6 administrator of any final action or judgment entered resulting
7 from the action.

8 4. In an action seeking abatement of a public safety
9 nuisance as provided in this section, evidence of other
10 current violations of this chapter may be received by the
11 court and considered in determining the remedial provisions
12 of any abatement order. In addition, evidence of prior
13 sanctions, violations of law, nuisance behavior, or general
14 reputation relating to the licensed premises may be admissible
15 in determining the reasonableness of remedial provisions of an
16 abatement order. However, evidence of a prior conviction of
17 the licensee, managers, employees, or contemporaneous patrons
18 and guests is not necessary for purposes of considering or
19 issuing an abatement order under this section. In an action
20 under this section, the administrator may submit to the court
21 a report as evidence on behalf of the division regarding
22 the compliance history of the licensee or permittee for
23 consideration by the court.

24 5. If the district court finds that a public safety nuisance
25 exists, the court may enter judgment declaring the existence
26 of the nuisance and order such remedial action as the court
27 determines reasonable to abate the nuisance. The abatement
28 order may take the form of an injunction. The duration of an
29 abatement order may be up to two years. Remedial action may
30 include but is not limited to temporary closure of the licensed
31 premises, revocation of the license for such period of time as
32 is consistent with section 123.40, required change in business
33 practice or operations, or posting of a bond. If a bond is
34 ordered and posted, the bond shall be subject to forfeiture,
35 in whole or in part, for any further actions contrary to the

1 abatement order.

2 6. For purposes of this section, "*licensed premises*" means
3 a premises where alcoholic beverages are authorized to be sold
4 for consumption on the licensed premises and where the serving
5 of food is only incidental to the consumption of alcoholic
6 beverages on the premises.>